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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,448	06/29/2006	Viorel Braic	016906-0443	2305
22428 7590 09/09/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER WALBERG, TERESA J				
ART UNIT		PAPER NUMBER		
3744				
MAIL DATE		DELIVERY MODE		
09/09/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,448

Applicant(s)

BRAIC ET AL.

Examiner

Teresa J. Walberg

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-19 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 06 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 4/14/08 5/27/08
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Inventor's Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. This office action is non-final because a portion of paragraph 7 in the prior office action was inadvertently omitted.
2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119 (e) as follows:

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Federal Republic of Germany on 08 April 2003. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b).

Note that a copy of the foreign priority document has not been received from the International Bureau.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-7 and 11-19 are rejected under 35 U.S.C. 102(a) as being anticipated by Cerrato (EP 1,205,332).

Cerrato discloses a heat exchanger (see abstract) with fixing elements comprising predetermined points of fracture (50 in Fig. 10), in particular in a motor vehicle (see abstract) including at least one of the fixing element including a first area and a second area with a quick acting connection between these two areas (Fig. 10), in each case one of the two areas (44) is an inseparable component of the heat exchanger, when the quick acting connection is closed the two areas engage positively with one another with a fixing effect (Fig. 10), the connection means of one of the two areas being provided with at least one predetermined point of fracture (50), the point of fracture being located on the area which can be separated from the heat exchanger (Fig. 10), the first and second area engage with one another in the manner of a dovetail connection (Fig. 10), the predetermined point of fracture (50) is provided at least in one of the webs of the area which can be separated from the heat exchangers (Fig. 10), the first and second areas of a fixing element engage with one another in a telescopic manner (note that the joint in Fig. 10 could be considered to be either telescopic or dovetail), the point of fracture being provided in the area of the fixing element which engage with one another in a telescopic manner (Fig. 10), the area of a quick acting connection which can be separated from the heat exchanger projects to outside the connection for fixing in a complementary bearing of a support supporting the heat exchanger (Fig. 1), the heat exchanger being provided equally with quick acting connections wherein the first area and the second area of a fixing element in a quick acting connection engage with one

another in the manner of a dovetail connection and the first area and the second area of a fixing element engage with one another in a telescopic manner (Fig. 1), the area inseparable from the heat exchanger including a pin (at 42 in Fig. 10), the area which can be separated including a sleeve (48 in Fig. 10), the point of fracture including a slit in the sleeve (Fig. 9), .

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cerrato (EP 1,205,332) in view of Hiramoto (4,579,184).

Cerrato discloses a heat exchanger having fixing elements comprising predetermined points of fracture as claimed, but does not show the fixing elements being connected to upper and lower supports.

Hiramoto discloses connecting a heat exchanger (1) to upper and lower supports (4 and 7).

It would have been obvious in view of Hiramoto to connect the fixing elements of Cerrato to upper and lower supports, the motivation being to securely hold the heat exchanger in the desired location.

7. Applicant's arguments filed 27 May 2008 have been fully considered but they are not persuasive.

Applicant argues that Cerrato does not disclose the connection means provided with at least one point of fracture located on an area which can be separated from the heat exchanger. This is incorrect. Fig. 1 of Cerrato discloses a point of fracture 24 secured to a bracket 22, which is easily separable from bracket 12, which is attached to the heat exchanger.

The applicant argues that Cerrato discloses that the fixing pin (20) is integral with bracket 12. However, the pin (20) of Cerrato is clearly shown in Fig. 1 as being secured to bracket 22 which is removable, rather than to bracket 12.

Applicant argues that Cerrato does not disclose a quick acting connector provided with a predetermined point of fracture. However, the pin of Cerrato is considered to be a quick acting connector and is considered to be provided with a predetermined point of fracture.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa J. Walberg whose telephone number is 571-272-4790. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Teresa J. Walberg/
Primary Examiner, Art Unit 3744

/TW/